

## **REMARKS**

At page 3 of the Final Action Letter ( hereinafter Action Letter), the examiner

5 asserts that Claim 1 is indefinite under 35 USC 112 Para 2.

Claim 1, 8, 15

The applicant traverses.

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The examiner states that the element “receiving over said network at said central controller, vehicle pricing information comprising first data representative of time to delivery of said new vehicle, a second data representative of a delivery destination of said new vehicle and third data representative of a price said user is willing to pay for said new vehicle;” is ambiguous and confusion as to who or what is providing and receiving the various data. ( See para 8). The examiner’s contention is “ It is ambiguous and confusing as to who or what is providing the various data.” ( Page 3 para 8)

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It is respectfully submitted that the above issue is NOT one of indefiniteness but rather “ambiguous and confusion as to who/what is sending”. Hence there is no *prima facie* established by the examiner under 35 USC 112 Para 2 under indefiniteness.

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25 Firstly it is clear the examiner is alleging it is ambiguous and confusion because the claim does not include a ‘term or phrase’ to identify the sender.

The Federal Circuit has stated the following :

**Title:** Method, apparatus and program for user to determine the ownership cost of a motor vehicle.

The specification must be sufficiently explicit and complete to enable one skilled in the art to practice the invention, while a claim defines only that which the patentee regards as his invention. 35 USC Para 112. The claim, not specification, measures the invention....[T]he argument that claim 1 must include a limitation found in the specification is legally unsound" ( Raytheon Co v Roper Corp., 724

5 F.2d 951, 220 USPQ 592, 597 ( Fed Cir 1992) (quoting Environmental Designs, Ltd v Union Oil., 71 F.2d 693,699, 218 USPQ 865, 870-871(Fed. Cir. 1983), cert denied, 464 US 1043(1984), and citing Smith v Snow, 294 US 1 (1935)).

10 From the above, it is clear there is no requirement for identifying who is sending such that missing this element/phrase, the entire claimed invention is indefinite in the eyes of one skilled in the art in view of the specification.

15 Even if the applicant is mistaken which is denied, there is no doubt that these datum are from user or/and manufacturer (even the examiner provided examples showing either user or manufacturer system). Since the examiner could identify then surely one skilled in the art would be able to understand to avoid ambiguity or confusion as alleged or at all.

20 The examiner provided the example – vehicle manufacturer sends first and second data and user sending third data which is not ambiguous or confuse to one skilled in the art given the examiner is able to identify who is sending then there is no issue of ambiguity of confusion as who is sending.

25 The applicant respectfully submit there is a NO need to identify the sender to avoid confusion or ambiguity as the claimed invention does not sought to limit so if at all. Furthermore, this is not appropriate as these claims merely seek to claim such datum rather than sender. There is also nothing to show without identifying

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the specific sender which could only be either vehicle manufacturer or user, one skilled in the art would fail to practice the claimed invention .

At page 4, Rejection under 103(a) in view of Matthew Wall “ Buy Car online to

5 beat British Prices” (Reference identified as “V”) and hereinafter “Wall”.

The article provides a way for buyers to buy cars online at a cheaper price (discount) by making a booking and paying a deposit. The applicant respectfully traverse. The examiner provided no apparent reason to modify Wall, here no 10 prima facie has been made. Furthermore, it is clear that booking a vehicle by placing a deposit is not inherently the same to one skilled in the art as calculating an option premium. There is no premium calculated to lock in a price said user is willing to pay in Wall. A ‘discount’ in Wall does not necessarily means a price said user is willing to pay.

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The applicant respectfully submits that claim 1 is now allowable for the reasons stated above. Because Claims 8, 15 are merely different class to claim 1, the applicant submit the same and repeat as above.

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Claims 5,12

The examiner asserts that Wall teach the following :

25 receiving an indication that a user has purchased the vehicle option;

updating a customer database to record purchase of the vehicle option ; and

posting transaction details accessible by all users.

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The applicant traverse and submits that Wall fails to show vehicle option. Wall

**Title:** Method, apparatus and program for user to determine the ownership cost of a motor vehicle.

only teach of placing a booking but there is also not indication of it posting transaction details accessible by all users. No *prima facie* has been made as the examiner provided no apparent reasoning for modification. Therefore, these claims are allowable.

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**Claims 6,13,19**

The examiner asserts Wall taught of purchasing vehicle using vehicle option, making payment and updating database. The applicant respectfully submits Wall did not teach of vehicle option and hence there is no utilization of vehicle option to purchase vehicle. Wall only provides booking and buying the vehicle. No *prima facie* has been made as the examiner provided no apparent reasoning for modification. Therefore, these claims are allowable.

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**Claims 7,14,20**

These claims relate to using vehicle option to SALE a vehicle. It is submitted that Wall teach user to buy vehicle by placing a booking, no vehicle option is found nor a contract for vehicle option is created as per Claim 1 and corresponding independents which said claims dependent on. No *prima facie* has been made as the examiner provided no apparent reasoning for modification. Therefore, these claims are allowable.

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In summary, as for as 103(a) rejection is concerned, it is clear that the examiner also failed to show the Graham factors and articulate the skill level of one skilled in the art sufficiently to place *prima facie*.

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**Application number:** 10/728,222

**Art Unit:** 3694

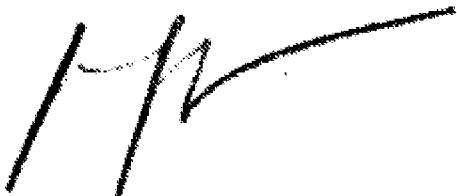
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**Applicant:** Khai Hee Kwan

**Examiner:** Shahid R. Merchant.

**Title:** Method, apparatus and program for user to determine the ownership cost of a motor vehicle.

Yours truly,

A handwritten signature in black ink, appearing to read "Khai Kwan".

Khai Kwan

5 023336

9 Dec 2007